

TEXAS BOARD OF PARDONS AND PAROLES

MINUTES

Board Meeting No. 22-0818



August 18, 2022

Austin, Texas

TEXAS BOARD OF PARDONS AND PAROLES

Board Meeting

Thursday, August 18, 2022

8610 Shoal Creek Blvd.
(Building 7W, Room 112)
Austin, Texas

10:00 AM

Order of Business

1. Call to Order
2. Convene Texas Board of Pardons and Paroles Open Meeting
3. Recognitions
4. Consent Items – Minutes for the May 18, 2022, Workshop and May 19, 2022, Board Meeting
5. Conference on Crimes Against Women Report and the Violence Against Women’s Act Grant Activity Report - Barry Bertocki, Director of Clemency
6. Discussion and Consideration of Proposed IPO Audit – Chris Cirrito, Director, TDCJ Internal Audit
7. Discussion and Consideration of Legislative Appropriations Request (LAR) – Kyle Britt, Budget Director
8. Discussion and Consideration of Board Policy, BPP-POL. 145.251 Special Condition “D” (Release to Detainer)
9. Discussion and Consideration of Board Policy, BPP-POL. 145.252 Special Condition “E” (Education Skill Level and Vocational Training)
10. Discussion and Consideration of Board Policy, BPP-POL. 145.254 Special Condition “I” (Employer Notification)
11. Discussion and Consideration of Board Policy, BPP-POL. 145.256 Special Condition “M” (Sex Offender Registration Condition and DNA Submission)
12. Discussion and Consideration of Board Policy, BPP-POL.141.300 Handgun Policy
13. Discussion and Consideration of Board Policy, BPP-POL.145.204 Medically Recommended Intensive Supervision
14. Discussion and Consideration of Board Policy, BPP-POL.145.266 Gang Renouncement and Disassociation
15. Discussion and Consideration of Board Policy, BPP-POL.141.200 Board of Pardons and Paroles Mission Statement
16. Discussion and Consideration of Board Policy, BPP-POL.141.201 Policy Statement on Internal Audit Procedures
17. Discussion and Consideration of Board Policy, BPP-POL. 145.205 Designation of Standardized Distance for Child Safety Zones

18. Final Readoption with Non-Substantive Amendments in 37 TAC, Chapter 141, Subchapter A
 - A. §141.3 Board Administration
 - B. §141.5 Parliamentary Authority
19. Final Readoption with Non-Substantive Amendments in 37 TAC, Chapter 141, Subchapter B, §141.57 Petition for Adoption of Rule
20. Final Readoption with Non-Substantive Amendments in 37 TAC, Chapter 141, Subchapter C
 - A. §141.61 Representation of an Offender
 - B. §141.72 Record of Decisions
21. Final Readoption with Non-Substantive Amendments in 37 TAC, Chapter 141, Subchapter D
 - A. §141.81 Registration of Visitors
 - B. §141.82 Fee Affidavits
22. Public Comments and Public Presentations
23. Convene Texas Board of Pardons and Paroles Closed Meeting – Executive Session
 - A. Consultation with Legal Counsel Regarding Pending or Contemplated Litigation or Settlement Offers; to Receive Legal Advice on Items Posted on this Agenda (Closed in accordance with Section 551.071, Government Code).
 - B. Consultation with Legal Counsel on Matters Where the Texas Board of Pardons and Paroles Seeks the Advice of its Attorney as Privileged Communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas (Closed in accordance with Section 551.071, Government Code).
24. Reconvene Texas Board of Pardons and Paroles Open Meeting
25. Adjourn



**MINUTES OF THE
TEXAS BOARD OF PARDONS AND PAROLES
BOARD MEETING
THURSDAY, AUGUST 18, 2022**

REGULAR SESSION

The Texas Board of Pardons and Paroles (Board) met in open session on Thursday, August 18, 2022, at 10:00 a.m., 8610 Shoal Creek Blvd., Bldg. 7W, Room 112, Austin, Texas.

BOARD MEMBERS PRESENT

David Gutiérrez
Carmella Jones
James LaFavers
Brian Long
Marsha Moberley
Linda Molina
Ed Robertson

BOARD STAFF PRESENT

Bettie Wells, General Counsel
Carol Garcia, Assistant General Counsel
Timothy McDonnell, Chief of Staff
Jessica Dillard, Board Administrator
Rachel Alderete, Director, Support Operations
Kyle Britt, Budget Director
Eugene Stroud, Deputy Director, Financial Operations
Heather Penick, Manager of Business Operations
Wadella Murphy, Director, Hearing Operations
Barry Bertocki, Director, Clemency
Clinton Gunnels, Director, Institutional Parole Operations
Pamela Pacher, Program Specialist
Terence Hall, Systems Analyst
Robert Detjen, Systems Analyst

Estela DeHoyos, Program Supervisor
Matthew Schlosser, Multimedia Technician

TDCJ STAFF PRESENT

Chris Cirrito, Director, TDCJ Internal Audit
Amanda Gage, Manager, TDCJ Victim Services
Freddy Alvarez, OIG

Others Present

Bill Habern, Attorney at Law
David O’neil, Attorney at Law
Roger Nichols, Attorney at Law
Peggy LaFavers
Linda Grey

CONVENED – TEXAS BOARD OF PARDONS AND PAROLES

Presiding Officer (Chairman) David Gutiérrez convened the meeting of August 18, 2022, at 10:00 a.m. in accordance with Chapter 551, Texas Government Code, Open Meetings Act. After roll call, the Chairman stated a quorum was present and declared the meeting open.

RECOGNITIONS

Chairman Gutiérrez recognized the Board Members.

Chairman Gutiérrez introduced Michael Adams, the new Parole Commissioner for the Huntsville Board Office and Richard Aiello, the new Parole Commissioner for the Austin Board Office. He highlighted their careers.

NAMES OF BOARD RETIREES (ATTACHMENT A)

Chairman Gutiérrez recognized the employees that retired and stated the names of the retirees will be included as part of the official minutes of the meeting.

Chairman Gutiérrez recognized Board Member James LaFavers and Parole Commissioners Tracy Long and Charles Speier on their retirements.

NAMES OF SERVICE AWARD RECIPIENTS (ATTACHMENT B)

Chairman Gutiérrez recognized the Board employees who have dedicated 5, 10, 15, 25, and 30 years of service to the state of Texas. He expressed his deepest appreciation for their dedicated service. He stated the names of the service award recipients will be included as part of the official minutes of the meeting.

Jessica Dillard, Board Administrator, recognized Clint Gunnels, Director of Institutional Parole Operations, for 30 years of state service. She highlighted his career and thanked him for his years of service.

Jessica Dillard introduced the new Director of Hearing Operations, Wadella Murphy.

Rachel Alderete, Director of Support Operations, recognized Michael Hardges on his promotion to Sr. Analyst.

CONSENT ITEMS

Chairman Gutiérrez stated the Board had an opportunity to review the Consent Items listed on the agenda prior to the meeting and asked if there were any objections. Hearing no objections, the Board approved the minutes for the May 18, 2022, Board Workshop and Board Meeting.

CONFERENCE ON CRIMES AGAINST WOMEN REPORT AND THE VIOLENCE AGAINST WOMEN'S ACT GRANT (ATTACHMENT C)

Chairman Gutiérrez introduced Barry Bertocki, Clemency Director, to present agenda item #5.

Mr. Bertocki provided a report on the Conference on Crimes Against Women (CCAW), held in Dallas, May 23 – 26, 2022 and the Violence Against Women's Act Grant. The conference was created as a partnership between the Dallas Police Department, FBI, and the Genesis Women's Shelter in Dallas and provides approximately 200 workshops, case studies and hands-on computer labs, taught by local and national experts who explore the various facets of crimes on violence against women. It's the only conference that addresses crimes against women and has a multitude of disciplinary focusses that encourage and communicate community response. The program is held annually. This year the agency had 10 participants, including Board Members, Commissioners, as well as staff from Institutional Parole Operations, Hearing Operations, Clemency, Board Administrator, and the General Counsel.

Mr. Bertocki stated he foresees more clemency involvement due to the Human Trafficking Domestic Violence program in place resulting from the initiative by the Governor in early 2020. In cooperation with the Governor's Office, a program was proposed that would bring more attention to clemency applicants that were more than just offenders, they were actually victims. This resulted in approval for a grant that allowed the agency to hire staff, equip, and train a four-person unit within the clemency department that deals exclusively with applications received from victims of violence, violence against women. This was a three-prong approach, which includes public awareness, development of an application for applicants that draw a focus on the issue, and lastly the hiring and training of staff. Currently they are in the process of getting the grant renewed.

DISCUSSION AND CONSIDERATION OF PROPOSED IPO AUDIT (ATTACHMENT D)

Chairman Gutiérrez introduced Christopher Cirrito, Director of Internal Audit, to present agenda item #6.

Mr. Cirrito discussed the FY 2023 Board of Pardons and Paroles Annual Audit Plan (IPO Audit), an audit of the institutional parole offices, specifically looking at case summaries to evaluate the efficiency of the process.

Chairman Gutiérrez thanked Mr. Cirrito for his presentation. He stated the text of Board Resolution, BPP-RES.22-08.01 Resolution Adopting the Fiscal Year 2023 Annual Audit Plan was previously provided and solicited a motion.

Motions

Mr. Long moved to adopt Board Resolution, BPP-RES. 22-08.01, which was previously provided, approving the recommended Fiscal Year 2023 Texas Board of Pardons and Paroles Annual Audit Plan (IPO Audit), as presented.

Mr. LaFavers seconded the motion, which prevailed when called for a voice vote.

DISCUSSION AND CONSIDERATION OF LEGISLATIVE APPROPRIATIONS REQUEST (LAR) (ATTACHMENT E)

Chairman Gutiérrez introduced Kyle Britt, Director of Budget, to present agenda item #7.

Mr. Britt discussed the 88th Legislative Appropriations Request (LAR), stating the BPP Budget request for the 88th Legislature 2024- 2025 biennium was developed in a manner consistent with instructions from state leadership, which directed the agency’s baseline request for the 2024 - 2025 biennium, not to exceed the 87th Legislature, 2022 – 2023 general review related funding. Consistent with these directions, the 2024 - 2025 LAR baseline request includes funding of \$59,979,130 for the 2-year biennium. The BPP LAR also includes funding requests above the baseline budget for exceptional items, including 15% pay raise for our parole career ladder employees, Institutional Parole Officers, and the Hearing Officers, 10% pay raises for all administrative staff, IT upgrade for remote access to the system, \$125,000 each year for vehicles, and funding to improve the work areas, the offices. The LAR for the 88th Legislature and exceptional items will total \$6,813,622.

Motions

Ms. Molina moved to adopt the Board’s Legislative Appropriations Request (LAR), as presented.

Ms. Jones seconded the motion, which prevailed when called for a voice vote.

BOARD POLICIES (ATTACHMENT F)

Chairman Gutiérrez yielded the floor to Board Member Ed Robertson, Chair of the Special Conditions Workgroup to present agenda items #8 - #11 and Bettie Wells, General Counsel to present agenda items #12 - #17 for discussion and consideration.

DISCUSSION AND CONSIDERATION OF BOARD POLICY BPP-POL. 145.251 SPECIAL CONDITION “D” (RELEASE TO DETAINER)

Mr. Robertson stated Board Policy 145.251 was reviewed by the Special Condition Workgroup, and in reviewing the policy, the Workgroup determined that non-substantive protocol updates were appropriate.

Motions

Ms. Moberley moved to adopt the revisions to Board Policy, BPP-POL. 145.251 Special Condition “D” (Release to Detainer), as presented.

Mr. LaFavers seconded the motion, which prevailed when called for a voice vote.

DISCUSSION AND CONSIDERATION OF BOARD POLICY BPP-POL. 145.252 SPECIAL CONDITION “E” (EDUCATIONAL SKILL LEVEL AND VOCATIONAL TRAINING)

The recommended amendments to Board Policy 145.252, include non-substantive revisions, additions of language, clarifying the conditions statutorily mandated.

Motions

Ms. Jones moved to adopt the revisions to Board Policy, BPP-POL. 145.252 Special Condition “E” (Educational Skill Level and Vocational Training), as presented.

Mr. Long seconded the motion, which prevailed when called for a voice vote.

DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL.145.254 SPECIAL CONDITION “I” (EMPLOYER NOTIFICATION)

The recommended amendments to Board Policy 145.254 include non-substantive protocol updates.

Motions

Ms. Molina moved to adopt the revisions to Board Policy, BPP-POL.145.254 Special Condition “I” (Employer Notification), as presented.

Ms. Moberley seconded the motion, which prevailed when called for a voice vote.

DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 145.256 SPECIAL CONDITION “M” (SEX OFFENDER REGISTRATION CONDITION AND DNA SUBMISSION)

In reviewing Board Policy 145.256 Special Condition “M”, Mr. Robertson stated it was determined non-substantive protocol updates as well as substantive addition of language, clarifying the condition and statutory mandate were appropriate.

Motions

Mr. LaFavers moved to adopt the revisions to Board Policy, BPP-POL. 145.256 Special Condition “M” (Sex Offender Registration Condition and DNA Submission), as presented.

Mr. Long seconded the motion, which prevailed when called for a voice vote.

DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 141.300 HANDGUN POLICY

The recommended amendments to Board Policy 141.300 include non-substantive protocol grammar, sentence structure, clarity, and minor correction revisions.

Motions

Mr. Long moved to adopt the revisions to Board Policy, BPP-POL.141.300 Handgun Policy, as presented.

Ms. Molina seconded the motion, which prevailed when called for a voice vote.

DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL145.204 MEDICALLY RECOMMENDED INTENSIVE SUPERVISION

The recommended amendments to Board Policy 145.204 include non-substantive protocol, and grammar revisions.

Motions

Ms. Molina moved to adopt the revisions to Board Policy, BPP-POL. 145.204 Medically Recommended Intensive Supervision, as presented.

Mr. LaFavers seconded the motion, which prevailed when called for a voice vote.

DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 145.266 GANG RENOUNCEMENT AND DISASSOCIATION

The recommended amendments to Board Policy 145.266 include non-substantive protocol, sentence structure, clarity, and minor corrections.

Motions

Ms. Moberley moved to adopt the revisions to Board Policy, BPP-POL. 145.266 Gang Renouncement and Disassociation, as presented.

Ms. Molina seconded the motion, which prevailed when called for a voice vote.

DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 141.200 BOARD OF PARDONS AND PAROLES MISSION STATEMENT

The recommended amendments to Board Policy 141.200 include non-substantive corrections and revisions.

Motions

Mr. LaFavers moved to adopt revisions to Board Policy, BPP-POL. 141.200 Board of Pardons and Paroles Mission Statement, as presented.

Ms. Jones seconded the motion, which prevailed when called for a voice vote.

DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 141.201 POLICY STATEMENT ON INTERNAL AUDIT PROCEDURES

The recommended amendments to Board Policy 141.201 include non-substantive revisions, sentence structure, clarity, and some minor corrections.

Motions

Ms. Molina moved to adopt the revisions to Board Policy, BPP-POL. 141.201 Policy Statement on Internal Audit Procedures, as presented.

Ms. Jones seconded the motion, which prevailed when called for a voice vote.

DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 145.205 DESIGNATION OF STANDARDIZED DISTANCE FOR CHILD SAFETY ZONES

The recommended amendment to Board Policy 145.205 includes one non-substantive correction.

Motions

Ms. Moberley moved to adopt the revisions to Board Policy, BPP-POL. 145.205 Designation of Standardized Distance for Child Safety Zones, as presented.

Ms. Molina seconded the motion, which prevailed when called for a voice vote.

BOARD RULES (ATTACHMENT G)

Chairman Gutiérrez yielded the floor to James LaFavers, Chair of the Rules Committee, to present the rules listed in agenda items #18 - #21.

FINAL READOPTION WITH NON-SUBSTANTIVE AMENDMENTS IN 37 TAC, CHAPTER 141, SUBCHAPTER A

Mr. LaFavers presented the rules in agenda item #18, stating the Board previously approved the initial readoption of the readoption of the rules and it has been more than 30 days since they were posted to the Texas Register. The General Counsel reports that no comments were received. The Rules Committee is recommending final readoption with non-substantive amendments to the rules listed in agenda item #18.

Motions

Ms. Molina moved for the Final Readoption with Non-Substantive Amendments of Chapter 141, General Provisions, Subchapter A, Board of Pardons and Paroles, §141.3 Board Administration and §141.5 Parliamentary Authority.

Mr. Long seconded the motion, which prevailed when called for a voice vote.

FINAL READOPTION WITH NON-SUBSTANTIVE AMENDMENTS IN 37 TAC, CHAPTER 141, SUBCHAPTER B, §141.57 PETITION FOR ADOPTION OF RULE

Mr. LaFavers presented the rule in agenda item #19, stating the Board previously approved the initial readoption of the rule, and it has been more than 30 days since it was posted to the Texas Register. The General Counsel reports that no comments were received. The Rules Committee is recommending Final Readoption with Non-substantive Amendments to the rule listed in agenda item #19.

Motions

Ms. Molina moved for the Final Readoption with Non-substantive Amendments of Chapter 141, General Provisions, Subchapter B, Rulemaking, §141.57 Petition for Adoption of Rule.

Ms. Jones seconded the motion, which prevailed when called for a voice vote.

FINAL READOPTION WITH NON-SUBSTANTIVE AMENDMENTS IN 37 TAC, CHAPTER 141, SUBCHAPTER C

Mr. LaFavers presented the rules listed in agenda item #20, stating the Board previously approved the initial readoption of the rules, and it has been more than 30 days since they were posted to the Texas Register. The General Counsel reports that no comments were received. The Rules Committee is recommending Final Readoption with Non-substantive Amendments to the rules listed in agenda item #20.

Motions

Ms. Molina moved for the Final Readoption with Non-Substantive Amendments of Chapter 141, General Provisions, Subchapter C, Submission and Presentation of Information and Representation of Offenders, §141.61. Representation of an Offender, §141.72 Record of Decisions.

Ms. Moberley seconded the motion, which prevailed when called for a voice vote.

FINAL READOPTION WITH NON-SUBSTANTIVE AMENDMENTS IN 37 TAC, CHAPTER 141, SUBCHAPTER D

Mr. LaFavers presented the rules in agenda item #21. The Board previously approved the initial readoption of the rules, and it has been more than 30 days since they were posted to the Texas Register. The General Counsel reports that no comments were received. The Rules Committee is recommending Final Readoption with Non-substantive Amendments to the rules listed in agenda item #21.

Motions

Ms. Molina moved for the Final Readoption with Non-Substantive Amendments of Chapter 141, General Provisions, Subchapter D, §141.81 Registration of Visitors and §141.82 Fee Affidavits.

Mr. Long seconded the motion, which prevailed when called for a voice vote.

PUBLIC COMMENTS

Chairman Gutiérrez stated no speaker registrations were received for the public comment and public presentation period. He proceeded with the order of business.

EXECUTIVE SESSION

Chairman Gutiérrez recessed the Regular Session at 11:01 a.m. and convened the Board into Executive Session (closed under Section 551.071 and 508.144b, Government Code).

RECONVENE TEXAS BOARD OF PARDONS AND PAROLES

Chairman Gutiérrez convened the Board back into Regular Session at 12:07 p.m. and proceeded with the order of business.

ADJOURNMENT

Having completed all posted items on the agenda, Chairman Gutiérrez adjourned the Board Meeting at 12:07 p.m.

ADOPTED BY UNANIMOUS CONSENT OF THE BOARD ON THE 10th DAY OF NOVEMBER 2022.



DAVID GUTIÉRREZ, PRESIDING OFFICER (CHAIR)